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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,464	11/08/2001	Vijay Mathur	MEDCOR P02BUSP1	4296
20210	7590	10/17/2003	EXAMINER	
DAVIS & BUJOLD, P.L.L.C. FOURTH FLOOR 500 N. COMMERCIAL STREET MANCHESTER, NH 03101-1151			RAEVIS, ROBERT R	
			ART UNIT	PAPER NUMBER
			2856	

DATE MAILED: 10/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/045,464	Applicant(s) MATHUR ET AL.	
	Examiner Robert R. Raevis	Art Unit 2856	KAP

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                 | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____   |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)        | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ | 6) <input type="checkbox"/> Other:  |

### DETAILED ACTION

1. The status (ie patents) of the parent, grandparent and great grandparent applications should be updated on page 1 of the application.
2. The claims were not consecutively numbered, so claims 5 (second occurrence) and 6-10 have been renumbered to read claims 6-11.
3. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 6, "the analysis mechanism" and "aspiration tube" both lack antecedent basis.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 11, 2, 7-9, 3 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marsoner et al in view of Applicant's Statement, and further in view of Ito.

Marsoner et al teach an automated diagnostic analyzer, including: chassis 4 with fluid passage, and probes mounted to the chamber within the chassis.

Marsonner does not call the probes "modules", and does not describe the particular structure of the probes.

As to claims 1, 2, 7-9, and 10, it would have been obvious to utilize either thick or thin film to sense "body gases" (ABSTRACT of Marsoner) of Marsoner because Applicant states (page 39, last paragraph, of written specification) that such biosensors provide for lower costs. In addition, it would have been obvious to employ a memory with the biosensor because Ito teaches (ABSTRACT) memory usage for blood related sensors to provide for storing data for properly using the sensor.

As to claim 11, Marsoner teaches "reference" (col. 3, line 45) usage.

As to claim 3, note that Ito teaches (Figure 3A) use of a structure that is "to be inserted into a measurement main unit" (col. 2, lines 35-36), suggestive that the assembly of Figure 3 may serve as a probe.

6. Claims 1, 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marsoner et al, in view of either Berger et al or Marcote et al, and further in view of Applicant's Statement, and further in view of Ito.

Marsoner et al teach a sensor module 4 contained within a "block" (col. 3, last line), but does not call the block a chassis

As to claims 1, 3, 4 and 5, it would have been obvious to utilize either Berger's (chamber 116) or Marcote's (oven) heating units to heat Marsoner's assembly, because Marsoner teaches the use of a thermostat-controlled block to heat the sensor modules, necessarily resulting in the chamber 116 or oven providing as chassis that includes a fluid passage for conducting fluids to it's respective interior (ie sensor chamber). In addition, it would have been obvious to utilize either thick or thin film to sense "body gases" (ABSTRACT of Marsoner) because Applicant states (page 39, last paragraph, of

Art Unit: 2856

written specification) that such biosensors provide for lower costs. In addition, it would have been obvious to employ a memory with the biosensor because Ito teaches (ABSTRACT) memory usage for blood related sensors to provide for storing data for properly using the sensor.

As to claim 4, note the sensor modules 2 and 3 that are connected in a sealed fashion.

As to claim 5, the assembly of Fig. 1 (Marsoner) is necessarily connected at its ends to fluid lines within the heating unit, the lines of which may be deemed part of the chassis.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert R. Raevis whose telephone number is 703-305-4919. The examiner can normally be reached on Monday to Friday from 6:30am to 4:00pm. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4900.

Raevis  
RAEVIS  
AU 2856

<b>Office Action Summary</b>	Applicati n No.	Applicant(s)	
	10/045,464	MATHUR ET AL.	
	Examiner	Art Unit	
	Robert R. Raevis	2856	

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